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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,642

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Camilla Maffei

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SCARBOROUGH STATION

SCARBOROUGH, NY 10510-9227

EXAMINER

CHOI, STEPHEN

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,642

Applicant(s)

MAFFEI, CAMILLA

Examiner

Stephen Choi

Art Unit

3724

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2-6,8,10-12 and 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,9,13,14 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant argues that claim 15 is readable on Species M. The examiner respectfully disagrees. Claim 15 depends on claim 12 which the applicant already indicated as not readable on the elected species. Furthermore, applicant's request for claim 7 to be examined has been acknowledged.

Specification

2. The abstract of the disclosure is objected because "© "on line 4 should be --(C)--. Correction is required. See MPEP § 608.01(b).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 7, 9, and 13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 11/002,758. Although the conflicting claims are not identical, they are not patentably distinct from each other because the inventions of claims 1, 7, 9, and 13 of the instant application are anticipated by the inventions of claims 1 and 6 of '758 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 9, and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 5-6, it is not clear what structure is set forth by "at least one weakened area". Figure 24 does not show a weakened area. Rather, a transverse fold is defined by a weakened line,

line 10, it is not clear what structure is set forth by "a means for receiving a force".

In claim 13, line 2, "the walls" lacks positive antecedent basis.

In claim 14, "the adjacent surfaces" lacks positive antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Banks (US 1,682,106).

Banks discloses all the recited elements of the invention including a strip of cardboard with a hole (e.g., 14) in a center position and at least one weakened area (e.g., 11) defining a transverse fold wherein two leaves are formed when the strip is folded along the transverse fold.

9. Claims 1 and 7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/34938 (hereafter '938).

'938 discloses all the recited elements of the invention including a strip of cardboard with a hole (e.g., 14) in a center position and at least one weakened area (e.g., 22a-b) defining a transverse fold wherein two leaves are formed when the strip is folded along the transverse fold and a cardboard element with at least one pre-folded fold line (e.g., 22a-b) defining first and second finger receiving sections and a glass vial receiving hole (e.g., 14).

10. Claims 13-14 and 19-21, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0784015 (hereafter '015).

Regarding claims 13-14, '015 discloses all the recited elements of the invention including an appendage (e.g., Figure 1) protruding from one of side walls of a box and

forming a strip of tools (e.g., 19-24) wherein one tool being connected to another tool along a pre-cut line in a detachably attached state (e.g., via 28), each tool having a hole (e.g., 31, 32) and a transverse fold (e.g., 26, 27, 29, 30). Regarding claim 14, see Figure 1 (e.g., sections 19 and 21 can be glued together). Regarding claims 19-21, '015 discloses all the recited elements of the invention including a punched piece of cardboard having pre-folded lines defining two front walls (e.g., 1, 4), two side walls (e.g., 2, 3), two closing flaps (e.g., 10, 12), an appendage and a strip of detachable tools (e.g., Figure 1) being connected to one of the side walls (e.g., via 4 and 18) wherein each detachable tool having a hole (e.g., 31, 32), two finger engaging sections (e.g., 19-24), and a transverse fold (e.g., 26, 27, 29, 30). Regarding claim 21, the element 4 can be lifted such that the detachable strip of tools can be unfolded.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 9, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Banks or '938.

Banks or '938 discloses the invention substantially as claimed except for pre-cut lines defining individually detachable tools. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of Bank's strip or '938's strip connected by pre-cut lines as taught

by applicant's admitted prior art in order to provide a plurality of strips in a sheet format that can be detached one after another for use. It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Response to Arguments

13. Applicant's arguments regarding the rejection of claim 1 in view of the Banks reference filed November 15, 2007 have been fully considered but they are not persuasive.

Applicant contends that Banks does not teach a strip of cardboard having a defined hole for receiving a neck of a glass vial and a cardboard sheet that is folded along a transverse fold such that one leaf is opposite another leaf.

The examiner respectfully disagrees. Banks does disclose a strip of cardboard having a defined hole capable of receiving a neck of a glass vial and a transverse fold to fold the strip so that one leaf is opposite to another leaf so as to be capable of arranging the leaves along side the neck of the glass vial.

14. Applicant's arguments with respect to claims 13-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Choi/
Stephen Choi
Primary Examiner, AU 3724
13 January 2008